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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,830	01/05/2004	Kei Yasuda	2003_1926A	4067

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EXAMINER	
MONIKANG, GEORGE C	

ART UNIT	PAPER NUMBER
2614	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/750,830	YASUDA ET AL.	
	Examiner	Art Unit	
	GEORGE C. MONIKANG	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 October 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) *1-12,21-27 and 31* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13-20,28-30 and 32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. 10/750,830.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, filed 10/1/2008, with respect to the rejection(s) of claim(s) 13-20, 28-30 & 32 under 10/750,830 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Rosenthal, US Patent 5,528,673.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 13-19, 28-30 & 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenthal, US Patent 5,528,673, in view of Dunstan admitted prior art (hereinafter referred to as DAPA, col. 1, lines 6-55), US Patent 6,876,310 B2.

Re Claim 13, Rosenthal discloses an apparatus operating system comprising: at least two apparatuses which are to provide output of the same type (*col. 3, lines 66 through col. 4, line 3*); and a control server capable of communicating with each of said at least two apparatuses (*fig. 4: I/O ports*), wherein each of said at least two apparatuses includes a communication section for transmitting to said control server a notification signal indicative of a pending change or a change in an output state of said each of said at least two apparatuses (*col. 3, lines 56-65: to control the T.V., radio etc when the phone rings, the server has to know the status of power connections to the T.V., radio etc*), and wherein said control server includes (i) a control rule storage section having stored therein a control rule which associates an output state of one of said at least two apparatuses with an output state to be taken by another of said at least two apparatuses when said one of said at least two apparatuses is in the output state thereof (*fig. 4: RAM, PROGRAM MEMORY etc; col. 3, lines 66 through col. 4, line 3*) (iii) a determination section for receiving the notification signal from said one of said at least two apparatuses, and in response to the notification signal, determining an output state to be taken by said another of said at least two apparatuses based on the control rule (*col. 3, lines 56-65; col. 4, lines 10-20*) (iv) an operating section for operating said another of said at least two apparatuses so as to transition into the output state determined by said determination section (*col. 3, lines 56-65; col. 4, lines 10-20*), but fails to disclose a location-related information acquiring section for acquiring location related information which is set in association with a location of each of said at least two apparatuses (*DAPA, col. 1, lines 41-55*), wherein said determination section is also for

deriving from the location-related information a distance between said one of said at least two apparatuses and said another of said at least two apparatuses (*DAPA, col. 1, lines 41-55*), and determining not to change the output state of said another of said at least two apparatuses if the distance, as derived from the location-related information, is equal to or greater than a predetermined distance (*DAPA, col. 1, lines 41-55 device has to be within certain distance for control*). It would have been obvious to use the CE control using infrared in DAPA with the control circuit of Rosenthal to be for the purpose conserving power by not controlling devices that do not emit loud enough sounds to disturb an occupant of a room.

Re Claim 14, combined teachings of Rosenthal and DAPA disclose the apparatus operating system according to claim 13, wherein said communication section of said one of said at least two apparatuses is for transmitting the notification signal when a user has performed an operation of changing the output state of said one of said at least two apparatuses (*Rosenthal, col. 3, lines 56-65; col. 4, lines 10-20*).

Re Claim 15, combined teachings of Rosenthal and DAPA disclose the apparatus operating system according to claim 14, wherein said communication section of said one of said at least two apparatuses is for transmitting the notification signal when the output state of said one of said at least two apparatuses temporarily changes for a predetermined time period (*Rosenthal, col. 3, lines 56-65; claim 3*), said apparatus operating system further includes a state storage section for storing a pre-operation output state of said another of said at least two apparatuses (*Rosenthal, fig. 4: RAM, PROGRAM MEMORY etc; col. 3, lines 66 through col. 4, line 3*), and said operating

section is for operating said another of said at least two apparatuses such that said another of said at least two apparatuses transitions into the output state determined by said determination section (*Rosenthal, col. 3, lines 56-65; col. 4, lines 10-20*), and after a lapse of the predetermined time period (*Rosenthal, col. 3, lines 56-65; claim 3*), said operating section is for operating said another of said at least two apparatuses such that said another of said at least two apparatuses transitions into the pre-operation output state stored in said state storage section (*Rosenthal, fig. 4: RAM, PROGRAM MEMORY etc; col. 3, lines 66 through col. 4, line 3*).

Re Claim 16, combined teachings of Rosenthal and DAPA disclose the apparatus operating system according to claim 13, wherein said each of said at least two apparatuses is for outputting sound (*Rosenthal, col. 3, lines 56-65; col. 4, lines 10-20*), and the output state of said each of said at least two apparatuses corresponds to a level of sound outputted from said each of said at least two apparatuses (*Rosenthal, col. 3, lines 56-65; col. 4, lines 10-20*).

Re Claim 17, which further recites, "The apparatus operating system according to claim 1, wherein each apparatus is an air-conditioning and/or heating apparatus, and the output state corresponds to a temperature set by the apparatus." Rosenthal and DAPA do not explicitly disclose the output state corresponding to a temperature as claimed. Official notice is taken that both the concept and advantages of providing the output state corresponding to a temperature is well known in the art. It would have been obvious to modify the system to control temperature since the audio determination can

be changed to a temperature determination for the benefit of controlling the temperature in a room when multiple appliances are operating.

Re Claim 18, combined teachings of Rosenthal and DAPA disclose the apparatus operating system according to claim 13, wherein said communication section of said one of said at least two apparatuses is for transmitting the notification signal when there is a pending increase or an increase of output of said one of said at least two apparatuses (*Rosenthal, col. 3, lines 56-65; col. 4, lines 10-20*), the control rule associates the pending increase or increase of the output of said one of said at least two apparatuses with a reduction of output of said another of said at least two apparatuses (*Rosenthal, col. 3, lines 56-65; col. 4, lines 10-20*), and said determination section is for determining the output state of said another of said at least two apparatuses so as to reduce output of said another of said at least two apparatuses (*Rosenthal, col. 3, lines 56-65; col. 4, lines 10-20*).

Re Claim 19, combined teachings of Rosenthal and DAPA disclose the apparatus operating system according to claim 13, wherein the control rule associates an output state to be taken by said one of said at least two apparatuses with a condition for operating said one of said at least two apparatuses so as to transition into this output state (*Rosenthal, col. 3, lines 56-65; col. 4, lines 10-20*), said determination section is to use the location-related information to determine whether the condition is satisfied (*DAPA, col. 1, lines 41-55 device has to be within certain distance for control*), and said operating section is for operating said another of said at least two apparatuses only

when said determination section determines that the condition is satisfied (*DAPA, col. 1, lines 41-55 device has to be within certain distance for control*).

Claims 28-30 & 32 have been analyzed and rejected according to claim 13.

4. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenthal, US Patent 5,528,673, and Dunstan admitted prior art (hereinafter referred to as DAPA, col. 1, lines 6-55), US Patent 6,876,310 B2, as applied to claim 13, and further in view of Dunstan, US Patent 6,876,310 B2.

Re Claim 20, combined teachings of Rosenthal and DAPA disclose the apparatus operating system according to claim 13, determination section is for determining the output state to be taken by said another of said at least two apparatuses based on the control rule and the location-related information (*DAPA, col. 1, lines 41-55 device has to be within certain distance for control*), but fails to disclose wherein the control rule is to be changed in accordance with time (*Dunstan, col. 6, lines 42-56: system can be set where during a set bedtime, any devices on are turned off automatically*), and with the control rule being associated with a time at which the notification signal is received (*Dunstan, col. 6, lines 42-56: system can be set where during a set bedtime, any devices on are turned off automatically*). It would have been obvious to use control rule associated with time (*Dunstan, col. 6, lines 42-56: system can be set where during a set bedtime, any devices on are turned off automatically*) of Dunstan with the apparatus of Rosenthal and DAPA for the purpose of controlling sound levels to appropriate levels at different times of the day.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE C. MONIKANG whose telephone number is (571)270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C Monikang/ 12/9/2008
Examiner, Art Unit 2614

/Vivian Chin/

Supervisory Patent Examiner, Art Unit 2614